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2005 Kentucky Legislative Session

The 2005 Kentucky General Assembly reconvened February 2 (after a four-day organizational session in early January) and will meet until March 7, followed by a recess until March 21 and 22 when it will consider any vetoes and adjourn.

The 30-day session will focus on a number of issues including the absence of a budget, tax modernization, slowing the rise of health care costs and improving Kentucky's public schools. Environmental issues under consideration during the 2005 session range from improving the testing of children for lead and a measure to abolish the Jefferson County Air Pollution Control District. Below is a listing of various bills introduced during the session.

Lead

[HB 479](#). Additional requirements for testing lead in children.

[SB 216](#). Requires a student to present proof of blood lead testing prior to enrollment in any public or private elementary or secondary school.

Coal Mining

[HB 509](#). Changes requirements relating to restoration to original contour of surface mines including that overburden must be returned to mine area to the maximum extent possible and no overburden is to be disposed of in the waters of the Commonwealth.

Energy

[HB 57](#). Provides nonrefundable tax credits to producers, blenders and retailers of biodiesel fuel.

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EQC Earth Day Awards to Celebrate Sustainable Communities in Kentucky

Is your city or county doing its part to support sustainable communities? EQC has joined with the Kentucky League of Cities to recognize 10 examples of sustainable community development in Kentucky. The purpose of the 2005 Earth Day Award program is to recognize cities and counties that support job growth, environmental stewardship and social equity — the three pillars of sustainable communities.

Examples of projects/programs/initiatives open for consideration of an award include:

- ♦ Cooperative community efforts in land preservation, sustainable agriculture, growth management, appropriate development of rural resources, improved trading and tourism and development of low-impact regional planning and transportation systems.
- ♦ Planning and development initiatives that retain a community's unique cultural and natural heritage.
- ♦ Local development initiatives that target economically healthy businesses and industries with minimal environmental impact while also supporting the reduction or elimination of negative impacts from existing industries.

For more information about the awards and application instructions visit www.eqc.ky.gov. Applications are due by March 15, 2005.

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STATE NEWS

9 Counties in Kentucky Fail to Meet Particulate Standard

The U.S. Environmental Protection Agency (EPA) has determined that seven Kentucky counties and portions of two other counties are violating - or contributing to violations of - the federal standard for fine particulate matter. The counties are: Jefferson, Bullitt, Fayette, Boyd, Kenton, Campbell, Boone and portions of Lawrence and Mercer. The remainder of the state is listed as being in attainment, or meeting the standard known as PM 2.5 - meaning particles as small as 2.5 microns, about one-30th the diameter of a human hair.

Fine-particle pollution results from dust, soot, smoke and liquid droplets in the air. Sources include motor vehicles, wood burning, power plants and other industrial facilities. Particulate matter has been clinically proven to cause or aggravate respiratory illnesses such as asthma and bronchitis.

The state can submit additional monitoring data for 2004 prior to the nonattainment designations becoming final, which is expected sometime in April 2005. Kentucky will have three years to develop and submit its State Implementation Plan (SIP) to EPA. It appears nonattainment areas will have until April 2010 to reach attainment status. Until EPA finalizes the implementation guidance later in 2005, it is unclear what types of emission reductions will be required in nonattainment areas.



A new public health tool is now available to view live, real-time air quality forecasts and mapping around the clock in Jefferson, Oldham and

Bullitt counties and 8 surrounding counties.

The new year round air pollution mapping service is the result of the Air Pollution Control District's ongoing partnership with the EPA. The AIRNow maps provide easy to understand local maps, and color web animation ("movies") of ground-level ozone and fine particle (PM2.5) levels. The forecast information is especially important for sensitive populations, which include: young children, adults who are active outdoors, and persons with respiratory diseases, such as asthma. AIRNow contains facts about the health and environmental effects of air pollution. It also offers simple ways individuals can protect their health and actions to reduce air pollution. Additional information is available at the Louisville Metro Air Pollution Control District's Web site: www.apcd.org and EPA's AIRNow web site at: www.AIRNow.gov

Oil Spill Fouls 16 Miles of Kentucky River

The Kentucky Department for Environmental Protection issued a notice of violation (NOV) against Mid-Valley Pipeline Co., owner of an oil pipeline that ruptured Jan. 26, affecting a 16-mile stretch of the Kentucky River in Owen and Carroll counties. The NOV advises Mid-Valley Pipeline that the release of oil, estimated by the company at 83,000 gallons, violated state water quality laws. The NOV also states that the company failed to immediately report the spill. The EPPC can seek penalties up to \$25,000 per day for each violation.

An estimated 61,740 gallons of oil has been recovered. The remaining 20,000 gallons remain in the Ohio River or were disposed of after being trapped on clean-up equipment, debris or shorelines. The Louisville Water Company added powdered activated carbon in the water-treatment process to eliminate any odor or bad taste. The special treatment costs about \$60,000 a day. Six geese and one beaver had been rehabilitated and released after encountering oil.



Mid-Valley oil spill, Kentucky River. Source: U.S. EPA

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CONFERENCE CALENDAR

March 3 - Kentucky Water Resources Research Institute Annual Symposium. Marriott Griffin Gate Resort Hotel, Lexington. Session topics includes presentations on current research in mining, urban watersheds, water system management, biology, sediment, education and training, and groundwater. Contact kipp@pop.uky.edu or visit the KWRRI Web site at <http://www.uky.edu/WaterResources/>

March 3 - Flying WILD: Educator's Guide to Celebrating Birds. Salato Wildlife Education Center, Frankfort. Workshop is open to teachers, parent volunteers, birding enthusiasts, home school educators, youth group leaders and naturalists. This new curriculum featuring birds contains all the other great features of other Project WILD products and encourages student leadership and community service by improving the quality of the environment for all. See <http://www.fw.ky.gov> or contact Laura.Lang@ky.gov

March 5 - Kentucky Aquaculture Assn. Annual Meeting and Workshop. Ky. State Univ. Topics include fresh-water prawn, tilapia, Australian red claw crayfish, channel catfish, paddlefish, largemouth bass and hybrid striped bass. Contact Jason Danaher or Dr. Bob Durborow at (502)597-8103.

March 7 -8 - Asthma Education Institute. St. Joseph Hospital, Lexington. Sponsored by the American Lung Association of Kentucky. Register at www.kylung.org or call (502) 363-0222.

March 17-18 - Solid Waste Coordinators Spring Meeting. Drawbridge Inn, Fort Mitchell. Contact Bob Rasmusson at bobr@kih.net or phone at (859) 624-4709.

April 12-15 - Stream Workshop - Natural Bridge State Park, Slade. A four-day hands-on course for natural resources professionals in stream assessment will be offered by the University of Louisville in conjunction with the Environmental and Public Protection Cabinet. There is no fee, but space is limited for this course. Contact Dana Kahn at dana.kahn@louisville.edu for more details and application form.

GRANTS AND AWARDS

Drinking Water System Award Nominations Sought. The U.S. Environmental Protection Agency is launching an awards program to call attention to outstanding performance by water systems that supply drinking water to the public. The 2005 Safe Drinking Water Act Excellence Awards are intended to highlight systems that demonstrate effective operations and maintenance as well as a commitment to maintaining and protecting drinking water and public water supplies. Nominations are being solicited in six categories, from small systems serving as few as 25 people up to those serving more than 10,000. Both surface water and groundwater systems are included. Details about the program and how to submit a nomination are on the Web at: <http://www.water.ky.gov/dw/profi/tips/Excellence+Awards>. The deadline for submitting complete nomination packages is April 15, 2005. Contact: Julie Roney at (502) 564-3410.

Runoff Pollution Grants Available. Grants totaling \$3.5 million are available for watershed restoration projects and for watershed implementation plan development as well as for other projects to help mitigate or prevent rainwater runoff pollution. Runoff pollution, also known as nonpoint source pollution, is the No. 1 contributor to water pollution in Kentucky, accounting for nearly two-thirds of the impaired rivers, streams and lakes in the state. These funds are provided to Kentucky by the EPA. They can be used to pay for up to 60 percent of the total cost for each project. A 40 percent nonfederal match is required. To find out how to apply for grant funds, visit www.water.ky.gov/publicassistance/funding/nps/ or you can contact Corrine Wells at (502) 564-3410.

The President's Environmental Youth Awards. This award will recognize young people across America for projects that demonstrate their commitment to the environment. Students K-12, or students sponsored by an adult, can submit an application by July 31, 2005. Winners from the 10 EPA regions will be honored in a ceremony in Washington, DC. See <http://www.epa.gov/enviroed/pdf/peyaapp.pdf>

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STATE PERMIT NOTICES

This is not an official listing. Contact the divisions for information about these permits and other public notices.

Ky. Division of Water - KPDES Water Discharge Notices/Hearings

Contact Ann Workman, (502) 564-3410 or see <http://www.water.ky.gov/publicassistance/notices>

IRON MAIDEN HOG FARM, Curdsville-Delaware Road, Owensboro, Daviess Co. This permit action involves the animal waste management practices at an existing hog farm. Process wastewater is treated and spray irrigated. Should a discharge occur, the receiving stream would be Smock Creek and an unnamed tributary.

LONE OAK HOG FARM, Smock Road, Owensboro, Daviess Co. This permit action involves the animal waste management practices at an existing hog farm. Process wastewater is treated and spray irrigated. Should a discharge occur, the receiving stream would be Smock Creek to the Green River at mile point 30.8.

TIM CROWE POULTRY FARM, Harlan Crossroads, Tompkinsville, Monroe Co. This permit action involves the animal waste management practices at an existing poultry farm. Animal waste is sold or given away and moved offsite.

SUGAR GROVE FARM (Green River Land Company, Incorporated), 3358 Sugar Grove Road, Bowling Green, Warren county. This permit action involves the animal waste management practices at an existing hog farm. Process wastewater is treated and spray irrigated. Should a discharge occur, the receiving stream would be Muddy Creek.

U.S. COAL CORPORATION, 600 Stone Chapel Road, Nortonville, Hopkins Co. This permit action involves a new source discharge of process water from coal washing activities and drainage from associated areas from a coal preparation plant and underground coal mine that enters Cypress Creek and an unnamed tributary to Drakes Creek.

Ky. Division for Air Quality Permit Notices

Contact: James Morse, (502) 573-3382 or see http://www.air.ky.gov/homepage_repository/Public+Notices.htm

R.R. DONNELLEY & SONS COMPANY, 3201 Lebanon Road, Danville, Boyle Co. Permit to construct and operate two additional lithographic printing presses at its existing plant. The plant is classified as a Title V major source for volatile organic compound (VOC) emissions. Under this determination the combined VOC emission from printing presses will be limited to 36 tons per year to preclude the applicability of Prevention of Significant Deterioration of air quality. In addition, the total of single and combined hazardous air pollutant emissions are limited to nine and 22.5 tons per year, respectively.

CARMEUSE LIME & STONE, INC. 9043 Highway 154, Butler Co. Permit to operate a lime manufacturing plant. The plant is classified as a Title V major source due to its emissions of criteria air pollutants.

BANDO U.S.A., INCORPORATED, 2720 Pioneer Drive, Bowling Green, Warren Co. Permit to construct/operate a rubber belt manufacturing facility. The facility is classified as a Title V major source due to its having potential emissions of hazardous air pollutants greater than a major source threshold.

OWENSBORO GRAIN EDIBLE OILS, INC. 1145 Ewing Road, Owensboro, Daviess Co. Permit to operate a shortening and cooking oil refinery. The plant is classified as a Title V major source due to its emissions of a hazardous air pollutant.

MCCAMMISH MANUFACTURING COMPANY, Industrial Park Rd., Columbia, Adair Co. Permit renewal to operate a wood processing facility. The plant is classified as a major source due to potential emissions of criteria and hazardous air pollutants greater than the major source thresholds. This permit contains practically enforceable limitations to restrict this source's actual emissions to less than the major source thresholds.

Ky. Division for Waste Management

ASHLAND INC. ROUTE 3 LANDFILL, U.S. Highway 3, in Catlettsburg, Boyd Co. Draft postclosure permit to implement post-closure requirements of a hazardous waste landfill. The closure of the landfill included installing a final cover over the cells that minimizes infiltration of water, and provides a protective barrier between the surface and the waste. Permittee will maintain the final cover, monitor the groundwater. Comments and requests for a public hearing can be submitted to dede.grisham@ky.gov

STATE REGULATIONS

Kentucky Division of Waste Management

401KAR 42:260 - replaces the term unobligated balance with the term cash balance in order to allow the fund to consider only the cash balance and allow for continued acceptance of new Fund applications. Public Hearing April 26, 10 a.m. Room 149 Capitol Annex, Frankfort. Contact: Bruce Scott, (502) 564-6716

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FEDERAL NOTICES

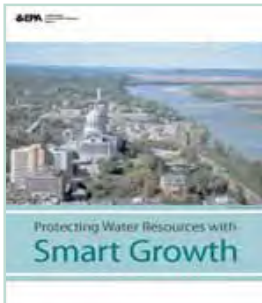
Underground Injection Control Permits

12 COAL SLURRY INJECTION WELLS - Class V permit to authorize the construction, operation, plugging and abandonment of 12 coal slurry injection wells in the abandoned works of the Camp Number 1 Coal Mine in Union County. Any person wishing to comment or request a hearing should contact Mr. George Ford, U.S. EPA, Water Management Div., Ground Water & UIC Section, 61 Forsyth St., S.W., Atlanta, GA 30303-8960 or phone (404) 562-9307.

Notice of Data Availability

MERCURY RULE. On November 30, EPA released a Notice of Data Availability (NODA) for its proposed Clean Air Mercury Rule. The NODA summarizes the more than 680,000 public comments received during the comment period and solicits further comment on new data and information to help EPA evaluate which regulatory approach will best reduce mercury emissions from power plants. The NODA is part of the EPA process toward delivering a final mercury rule by March 15, 2005. For more information see http://www.epa.gov/mercury/control_emissions/noda.htm

PUBLICATIONS/WEB SITES



Protecting Water Resources with Smart Growth

Growth and development can have adverse effects on water resources, including loss of woodlands, meadowlands, wetlands and increased polluted run-off. Increases in impermeable cover and vehicle traffic also can negatively impact water quality and quantity. To address these and other impacts, local governments are developing smarter approaches to growth. They are looking for, and using, policies and tools that enhance existing neighborhoods, improve schools, protect drinking water, and provide attractive housing and transportation choices.

Protecting Water Resources with Smart Growth is intended for audiences such as communities, local governments, state and regional planners who are already familiar with smart growth and are now seeking more ideas on how to protect their water resources. The document is a compilation of 75 policies designed to protect water resources and implement smart growth. Visit http://www.epa.gov/smartgrowth/water_resource.htm to view the report or call 1-800-490-9198 and request EPA publication 231-R-04-002.

2004 Survey of Kentuckians' Environmental Knowledge, Attitudes and Behaviors

The Kentucky Environmental Education Council recently released its findings from a survey on environmental literacy. Among some of the findings were:



- 92% of Kentuckians agreed that it is possible to protect the environment and have a strong environment.
- 96% of Kentuckians agree that knowing about environmental problems is important to them.
- 60% report donating time or money to environmental causes.
- 97% agreed that environmental education should be taught in schools.
- Water and air pollution cited as top environmental problems in Kentucky.
- 49% of those surveyed correctly identified coal burning power plants as a major source of

electricity generation in the United States. The remainder identified nuclear or hydroelectric as the major sources.

■ 63% of respondents are willing to pay more for goods and services to protect the environment.

To receive a copy of the survey contact (800) 882-5271.

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SB 133. Amend KRS 45A.345 of the Kentucky Model Procurement Code to include water, sewer, and metering upgrades in the definition of items appropriate for guaranteed energy savings performance contracting.

Water Quality

HB 372. Create new section of Subchapter 10 of KRS Chapter 224 to establish criteria for certification of environmental laboratories, require that environmental laboratories be accredited through the American Association for Laboratory Accreditation or the National Environmental Laboratory Accreditation Program.

SB 175. Allow the Environmental and Public Protection Cabinet to issue permits for the discharge of fill material into streams and wetlands (Section 404 of the Clean Water Act).

Air Quality

SB 213. Abolishes air pollution control districts in consolidated local governments and stipulates that any rules and regulations be no more stringent than relevant federal rules.

Natural Resources

HB 8. Allow all commercial trucks carrying natural resource products to exceed prescribed weight limits and carry loads up to 120,000 pounds.

HJR 65. Reauthorize the Forest Health Task Force for a period of two years.

HB 79. Provide a temporary master logger certification for four months, provide cabinet with authority to remove bad actor designations and to promulgate administrative regulations to establish procedures for removal of bad actor designations.

HB 172. Provide for property tax reduction and encourage forest management.

Budget

HB 267. Operating budget for state agencies. Environmental and Public Protection budget:

- Environmental Protection \$90,113,000
- Natural Resources \$40,973,000
- Surface Mining \$33,404,100
- Abandoned Mine Land \$22,000,000
- EQC \$258,500
- Nature Preserves \$1,452,900

Toll-Free Phone numbers - 2005 Regular Session

Bill Status Line	1-866-887-9016
Legislative Message Line	1-800-372-7181
Calendar (Meetings) Line	1-800-633-9650
TTY Message Line	1-800-896-0305
En Español	1-866-739-5556

Check the status of bills and meetings at the
Kentucky Legislature 2005 Session Web Site:
<http://www.lrc.ky.gov/record/05rs/record.htm>



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EQC ACTIVITIES



EQC Supports Emergency Plans for High Hazard Impoundments

EQC has expressed its strong support to strengthening emergency response programs related to high-hazard impoundments in Kentucky. EQC, on three occasions, has recognized the need to protect the public from possible failures of high-hazard dams and impoundments.

- In 1988, EQC convened a Dam Safety Advisory Committee. The committee unanimously recommended that based on criteria jointly developed by the Division of Disaster and Emergency Services and the Division of Water, owners of high hazard impoundments be required to develop and maintain an emergency response/preparedness plan and local DES coordinators receive the plans and hold periodic drills as needed.
- In 2001, after the failure of the Martin County Coal slurry impoundment, EQC recommended that all high-hazard impoundments be required to prepare emergency response plans.
- In 2002, after a rash of spills, EQC called for a statewide inventory of all high-hazard high/risk facilities and the promulgation of state rules to require emergency action plans for all high hazard dams and impoundments.

EQC has expressed its support for emergency response plans for all high hazard impoundments in Kentucky to the Governor and Legislature. The Commission noted that such plans are critical to saving lives if an emergency should occur.

EQC Commissioners

Lindell Ormsbee, *Chair*
Lexington

Betsy Bennett, *Vice-Chair*
Louisville

Patty Wallace, *Louisville*

Gary Revlett, *Shelbyville*

Gordon Garner, *Prospect*

Eugene Zick, *Russellville*

Laura Knoth, *Grand Rivers*

Leslie Cole, *Ex. Director*

leslie.cole@ky.gov

Erik Siegel

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Frances Kirchhoff

frances.kirchhoff@ky.gov

EQC Honored as "Leader in Ethics"



The Kentucky Executive Branch Ethics Commission has recognized the Environmental Quality Commission for its leadership in adopting a code of ethics for its members. The ethics commission has awarded a certificate honoring EQC as a leader in ethics for its commitment to integrity in government.

Since 1990, EQC has required members to disclose any financial stake in any corporation holding a permit issued by the Environmental and Public Protection Cabinet or who is an officer, employee or agent of any trade association which represents any person, corporation or organization holding a permit issued by the cabinet. Those persons are ineligible to vote on issues related to corporate interests. Commission members are also required to disclose any conflict of interest on any matter under consideration by EQC and not vote on that issue.

EQC Becomes ENERGY STAR Partner

The Kentucky Environmental Quality Commission has become one of the newest energy star partners. ENERGY STAR is a government-backed program helping businesses and individuals protect the environment through superior energy efficiency. Results are already adding up. Last year alone, Americans, with the help of ENERGY STAR, saved enough energy to power 20 million homes and avoid greenhouse gas emissions equivalent to those from 18 million cars - all while saving \$8 billion. EQC will work with other state agencies and the public to promote smart energy use in Kentucky. To learn more about energy efficient choices see http://www.energystar.gov/index.cfm?c=about.ab_index

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EQC Meeting Announcement



Energy in Kentucky

March 10, 2005 1 p.m. - 3:30 p.m

Room 125, Capitol Annex, Frankfort

On Feb. 7, 2005 Governor Ernie Fletcher released the Commonwealth of Kentucky's first comprehensive Energy Plan. The historic plan will address the energy needs of the Commonwealth for well into the 21st century. To view the strategy visit <http://governor.ky.gov/NR/ronlyres/494E5F9E-5277-4EAD-9B21-7F0CE5CA235E/0/CompositEnergyReport.pdf> The Governor also announced several new energy policy initiatives:

- The proposed executive budget includes \$2 million to establish an "Energy Research and Development Matching Fund."
- Legislation has been filed to create an Office of Energy Policy within the Commerce Cabinet.
- \$3 million will be provided to develop a curriculum for workforce development targeted specifically at the coal industry.
- The Governor's tax modernization proposal includes a \$2 per ton tax credit for the utilization of Kentucky coal at clean coal facilities.
- Signing of an Executive order that calls for a "Kentucky Low Cost Electricity—2025" report to be issued by the Public Service Commission to serve as a strategic blueprint to ensure that Kentucky continues to enjoy a low cost electricity future.
- Formation of a Utility Savings Council to recommend initiatives to save Kentucky's taxpayers money on state government's energy bills.

EQC will discuss the Energy Strategy and Initiatives and review oil and gas production trends and issues during its March 10 public meeting.

Meeting Agenda

- | | |
|------------------|--|
| 1:00 p.m. | Open Meeting |
| 1:05 p.m. | Kentucky Energy Strategy
Andrew V. McNeill, Chief of Staff, Kentucky Commerce Cabinet |
| 1:45 p.m. | Oil and Gas Trends and Issues
Rick Bender, Director
Kentucky Division of Oil and Gas Conservation |
| 3:00 p.m. | Other Business |
| 3:30 p.m. | Adjourn |

Visit the EQC Web site at www.eqc.ky.gov for agenda updates. All EQC meetings are free and open to the public. The public is encouraged to attend EQC meetings and offer comments. Meeting facilities are accessible to people with disabilities. Auxiliary aids, interpreters and other services will be provided upon request by contacting EQC.

The Environmental Quality Commission is a seven-member citizen board that advises officials on environmental matters, provides a public forum for the discussion of issues and monitors environmental conditions. The Environmental Quality Commission welcomes your input.

Telephone -- (502)564-2150 ext. 160.

E-mail -- EQC@ky.gov

Web site -- www.eqc.ky.gov

Address -- Environmental Quality Commission, 14 Reilly Road., Frankfort, KY 40601